

Reference

Sakurai, A. (2015). *Kyousei-shisetsu no ishi no keizoku-teki katsu ante-teki na kakuho ni mukete: Kyousei-ikan no kengyo oyobi kinmu-jikan no tokurei tou ni kansuru houritsu no seiritsu* [Toward continuously and stably securing physicians in correctional institutions: Enactment of the Act on Special Provisions of the Dual Employment and Working Hours of Correctional Medical Officers, etc.]. *RIPPO TO CHOSA*, 370, 3–18.

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2. Why Do Female Lawyers Get Less?

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In the Third Basic Plan for Gender Equality, the Gender Equality Bureau of the Japanese Government's Cabinet Office targeted increasing female participation in leadership positions in all fields of Japanese society to at least 30% by the year 2020. This goal, however, seems practically impossible to achieve in the Japanese legal profession. As of 2014, only 24% of judges, 22.4% of prosecutors, and 18.2% of lawyers (*bengoshi*) in Japan were women. Among these three groups, the gender gap among lawyers is most serious in terms of not only the demographic ratio but also income and the working environment.

Ann M. Morrison argues in her book that the glass ceiling is “a transparent barrier [t]hat kept women from rising above a certain level in corporations” (Ann M. Morrison et al., *Breaking the Glass Ceiling* 13 (Updated ed. 1992)). The glass ceiling “is not simply a barrier for an individual, based on the person's inability to handle a higher-level job... Rather, the glass ceiling applies to women as a group who are kept from advancing higher because they are women (emphasis added by the author).” While Morrison speaks about the glass ceiling in the context of female corporate employees, this description applies equally to female lawyers in Japan. Various empirical data show that there is a significant

gender gap in the community of legal professionals (See, Kyoko Ishida, *Why Female Lawyers Get Less?*, *Hastings Journal of International and Comparative Law Review*, vol.36, 2016).

According to the Economic Survey of Lawyers in 2010, the income gap between male and female lawyers expands as a generation ages. When lawyers are in their 50s, the gap reaches its peak at 11.25 million yen: male lawyers earn 24.17 million yen annually, whereas female lawyers earn 12.9 million yen annually. This means that, on average, male lawyers earn almost twice as much as female lawyers after approximately twenty years of practice. The gender gap appears not only in their income but also in their working hours, status in the law firm, and practice areas. In reality, female lawyers and male lawyers pursue virtually different career paths.

Until very recently, the female lawyer's situation was not treated as an important problem in the legal community. While the Japan Federation of Bar Associations (JFBA) established the "Special Committee Concerning Women's Rights" (currently called the "Committee for Gender Equality") in 1976, this committee mainly focused on women's issues in society generally and how lawyers should commit to improve the situation. It was not until 2007 that the JFBA established the "Headquarters for Promoting Gender Equality," which focuses on gender equality in the bar community. In the same year, the JFBA adopted its first resolution pursuing gender equality inside its organization. These recent events illustrate that the JFBA and local bar associations have begun to commit to addressing the bar's gender issue.

In 2008, the JFBA adopted the First Basic Plan to Promote Gender Equality in the bar community. This plan lists the following twelve issues with which the JFBA should deal to promote gender equality in the bar community:

- (1) Promoting participation of female lawyers in the bar's decision-making processes;
- (2) Conducting a survey and examination of the gender gaps in income and working environment;
- (3) Ensuring gender equality in the recruitment processes and workplace

treatment;

- (4) Resolving the problem of a lack of female lawyers in rural areas;
- (5) Supporting bar members in maintaining work-life balance;
- (6) Holding discussions over how official events and handouts should reflect gender equality;
- (7) Preventing members' discriminative statements and treatment by gender;
- (8) Establishing a system for processing complaints;
- (9) Participating in international activities promoting gender equality of the bar;
- (10) Conducting awareness campaigns and lectures about gender equality;
- (11) Establishing a scheme to promote gender equality of the bar; and
- (12) Endeavoring to resolve gender-related problems in the judiciary.

After the adoption of this Basic Plan, there were several improvements within the bar community. The most notable achievement was that, as of November 2012, 15 out of 52 bar associations had adopted a rule exempting lawyers who were taking childcare leave from paying the membership fee. In Japan, it is generally a prerequisite for practice to pay a membership fee to both the local bar association in which the lawyer belongs and to the JFBA. This is a serious burden for female lawyers who have recently given birth and cannot practice due to the local bar membership's general annual cost, which ranges from approximately 500,000 yen to 1,150,000 yen. The bar's membership fee system did not originally consider female lawyers who had to temporarily leave the practice to care for their children but subsequently wished to continue their professional careers.

In 2013, the First Basic Plan was revised by the Second Basic Plan. The Second Basic Plan of 2013 lists the following eleven issues to which the JFBA should proactively commit (see, JFBA website for this issue, <http://www.nichibenren.or.jp/activity/human/kyodo.html>):

- (1) Establishing a scheme to promote gender equality of the bar;
- (2) Conducting awareness campaigns and lectures;
- (3) Promoting expansion of the ratio of female lawyers and removing unbalanced distribution of female lawyers;
- (4) Promoting participation of female lawyers in the bar's decision-making processes;
- (5) Conducting a survey and examination about the gender gaps in income and working environment;
- (6) Collecting and providing role models for young female lawyers;
- (7) Ensuring gender equality in the recruitment process and workplace treatment;
- (8) Preventing discriminative statements and treatment by gender;
- (9) Supporting bar members in maintaining work-life balance;
- (10) Participating in international activities promoting gender equality of the bar; and
- (11) Endeavoring to resolve gender-related problems in the judiciary.

We may observe that many of the objectives in the First Basic Plan are reproduced in the Second Basic Plan. This implies that these objectives have not been successfully completed within the first five years and, consequently, the JFBA recognizes the need for further effort regarding

these matters. The Second Basic Plan is an ongoing project and will be reviewed in 2017. It is to be hoped that the bar's efforts will improve the conditions of female lawyers and we will have more diverse lawyers in the future. Ultimately, gender equality in the legal profession is a necessary factor to actually mobilize a gender equal society.

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3. Argument for the Exclusion of Civil Litigation from Nuclear Power Plant

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1. Rationale for the argument for the exclusion of civil litigation:

In Japan, there are two litigation methods available for citizens to prevent the construction or operation of a nuclear power plant: administrative litigation (defendant: now the Nuclear Regulation Authority) and civil litigation (defendant: an energy company). Many nuclear power plant litigations instituted prior to the accident at the Tokyo Electric Power Company (TEPCO) Fukushima Dai-ichi Nuclear Power Plant in March 2011 (hereinafter, “Fukushima Nuclear Power Plant Accident”) were administrative litigations, but since the Fukushima Nuclear Power Plant Accident, most have been civil litigations. And when courts began to make decisions to halt the operation of nuclear power plants in civil litigation actions, academic theorists and members of the economic world suddenly began to argue for the exclusion of civil litigation from nuclear power plant litigation. This marked the first appearance of the argument for the exclusion of civil litigation during the long history of nuclear power plant litigation in Japan.

2. Situation in Japan following the Fukushima Nuclear Power Plant Accident:

The majority of the citizens of Japan are opposed to the restarting of